

IN THE U.S. DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

DON FAIRFAX, *ET AL.*,

Plaintiffs,

vs.

LOWE'S HOME CENTERS, LLC,

Defendant.

CASE NO. 2:20-CV-05487

**DEFENDANTS LOWE'S HOME
CENTERS, LLC'S NOTICE OF
REMOVAL**

TO: THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF OHIO, EASTERN DIVISION

1. Defendant Lowe's Home Centers, LLC ("Lowe's), improperly identified as "Lowe's Home Center, LLC" is a Defendant in a civil action brought against it in the Court of Common Pleas for Franklin County, Ohio, styled *Don Fairfax v. Lowe's Home Center, LLC*, Case No. 20CV005980. Copies of all process and pleadings in that action are attached hereto as Exhibit A, pursuant to 28 U.S.C. §1446(A).

2. Said action was commenced by service of the Complaint on Lowe's on September 22, 2020.

3. Plaintiff Don Fairfax is a resident of the State of Tennessee.

4. Lowe's is a foreign corporation organized, registered and existing under the laws of the State of North Carolina and has its principal place of business in North Carolina.

5. On September 28, 2020, an Amended Complaint was filed that joined Plaintiff Nicole Collins.

6. Plaintiff Nicole Collins is a resident of the State of Ohio.

7. The within lawsuit is a controversy between citizens of different states, as to give rise to complete diversity of citizenship within the meaning of 28 U.S.C. §1332.

8. Plaintiffs demand judgment against Lowe's in an amount in excess of \$25,000.00. According to Plaintiff's Amended Complaint, as a result of the incident in question, Plaintiff Don Fairfax "sustained severe and permanent injury to his right shoulder." In addition, Plaintiff claims: (1) he has "suffered and will continue to suffer physical pain, mental anguish and emotional distress"; (2) he was "required and will continue to require medical care, attention and treatment, all with resulting expenses"; (3) he "sustained and will continue to sustain a loss of earnings and earnings capacity"; and (4) he has "suffered and will continue to suffer impairment in the use of the affected areas of his body and a reduction in the quality and enjoyment of his life.". Plaintiff Nicole Collins makes similar allegations. As such, it is Lowe's good faith belief that the amount in controversy exceeds the jurisdictional amount of \$75,000.00, exclusive of interest and costs, if all of its defenses fail and if Plaintiffs prove all of their claimed damages as alleged in the Amended Complaint.

9. This is a civil action brought in a state court in which the United States District Court has original jurisdiction because of diversity of citizenship, and Lowe's is not a citizen of the State of Ohio, in which this action was brought.

10. Written notice of removal of this action has been given simultaneously herewith to Plaintiffs' counsel and the Clerk of Courts for Franklin County, Ohio.

WHEREFORE, Defendant Lowe's Home Centers, LLC hereby removes this action from the Court of Common Pleas for Franklin County, Ohio, to this Court, pursuant to 28 U.S.C. §1441.

Respectfully submitted,

/s/ Nicholas P. Resetar

Nicholas P. Resetar (0086507)

nresetar@ralaw.com

Tyler M. Jolley (0092772)

Roetzel & Andress, LPA

625 Eden Park Drive, Suite 450

Cincinnati, Ohio 45202

Telephone: 513.361.0200

Facsimile: 513.361.0335

ATTORNEYS FOR DEFENDANTS

LOWE'S HOME CENTERS, LLC

PROOF OF SERVICE

A copy of the foregoing was served on this 19th day of October, 2020 electronically by way of the Clerk's electronic filing system.

/s/ Nicholas P. Resetar

Nicholas P. Resetar

Tyler M. Jolley

15781540 _1 135455.0097